



CNR: KAHC010363912020

NC: 2026:KHC:52790  
WP No. 13669 of 2020

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 24<sup>TH</sup> DAY OF SEPTEMBER, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM**

**WRIT PETITION NO.13669 OF 2020 (GM-CPC)**

**BETWEEN:**

SMT.SUBHADRAMMA  
W/O B.K.VISHWANATHAIAH SETTY  
AGED ABOUT 67 YEARS  
R/AT MUTHAKAPALLI VILLAGE  
YELDUR HOBLI  
SRINIVASAPURA TALUK-563 152

...PETITIONER

(BY SRI.KRISHNA NAIK, ADVOCATE)

**AND:**

1. TEHAR LAHARI  
S/O LATE A JOSEPH  
AGED ABOUT 65 YEARS
2. SHANTHI YESUBALU  
D/O LATE A.JOSEPH  
AGED ABOUT 40 YEARS
3. MERI PRINCY  
D/O LATE A.JOSEPH  
AGED ABOUT 33 YEARS

RESPONDENT NOS.1 TO 3  
ARE R/AT RAMAIAH COLONY  
CHIMASAMUDRA ROAD

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VIRGONAGARA POST  
BENGALURU – 560 049

SMT.SUSOIMARY  
SINCE DECEASED BY LRS.,

4. FATHIMA MARY  
D/O LATE SUSAIMARY  
W/O ABBENNA  
AGED ABOUT 58 YEARS

5. AROGYA MARY  
D/O LATE SUSOIMARY  
W/O BALASWAMY  
AGED ABOUT 54 YEARS

BOTH ARE RESIDING OF  
MARIYAMPETA VILLAGE  
MUTHAKAPALLI POST  
YELDUR HOBLI  
SRINIVASAPURA TALUK – 563135

6. BALA RAJU  
S/O LATE SUSAIMARY  
AGED ABOUT 57 YEARS  
R/O 8<sup>TH</sup> MAIN, PEENYA  
NEAR BISCUTTA FACTORY  
BANGALORE

7. NANAMMA  
D/O LATE SUSAIMARY  
W/O ANAND  
AGED ABOUT 52 YEARS  
R/O SHIVADI VILLAGE  
PUNGNUR TALUK  
CHITTOOR DISTRICT (A.P)



CNR: KAHC010363912020

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WP No. 13669 of 2020

8. RANEMMA  
D/O LATE SUSAIMARY  
W/O MARIDAS  
AGED ABOUT 46 YEARS  
R/O MARIYAMPET VILLAGE  
MUTHAKAPALLI POST  
YELDUR HOBLI  
SRINIVASAPURA TALUK
9. NIRMALA MARY  
D/O LATE SUSAIMARY  
AGED ABOUT 48 YEARS  
R/O MARIYAMPET VILLAGE  
MUTHAKAPALLI POST  
YELDUR HOBLI  
SRINIVASAPURA TALUK

...RESPONDENTS

(BY SRI.N.S.BHAT, ADVOCATE FOR R.1 TO R.3  
SRI.ASHOKA T, ADVOCATE FOR R.9;  
R.5 AND R.8 –SD)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE ENTIRE RECORDS FROM ADDL., CIVIL JUDGE AND JMFC AT SRINIVASAPURA IN O.S.NO.192/2009 AND ETC.,

THIS PETITION, COMING ON FOR FURTHER HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

**ORAL ORDER**

The captioned writ petition is filed by the plaintiff calling in question the order dated 27.02.2020 passed in

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O.S.No.192/2009 by the learned Additional Civil Judge and JMFC, Srinivasapura, whereby I.A.No.XXI filed by the plaintiff under Order XXVI Rule 9 of the Code of Civil Procedure, 1908, seeking reference of the admitted and disputed signatures of the defendants appearing on the disputed agreement of sale for comparison with their admitted signatures, has been rejected.

2. The learned Trial Judge, while rejecting the said application, has taken note of the fact that both parties have already led their oral and documentary evidence. The plaintiff has examined the attesting witness to the agreement of sale dated 20.06.1990 as well as the son of the scribe, who drafted the said document. Having regard to the evidence already brought on record, the learned Trial Judge has concluded that the material available before the Court is sufficient for adjudication of the controversy between the parties. Aggrieved by the said order, the plaintiff is before this Court.



3. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents. Perused the impugned order and the material on record.

4. Learned counsel appearing for the petitioner would contend that, though the defendants have admitted the mortgage transaction, they have seriously disputed the signatures appearing on the agreement of sale dated 20.06.1990. It is therefore contended that, by way of abundant caution, the plaintiff has sought comparison of the disputed signatures with the admitted signatures of original defendant No.1.

5. The said contention cannot be accepted. This Court has carefully examined paragraphs 4 and 9 of the written statement filed by original defendant No.1. A reading of the said pleadings clearly demonstrates that there is a specific denial of the very transaction relating to the agreement of sale. In paragraph 9 of the written



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WP No. 13669 of 2020**

statement, original defendant No.1 has specifically pleaded that the alleged agreement of sale dated 20.06.1990 is false and incorrect. Therefore, the case cannot be construed as one where the execution of the document is admitted and only the genuineness of the signature is disputed.

6. It is also forthcoming from the record that the petitioner has not produced the original registered mortgage deed, even though reliance is sought to be placed upon the signatures appearing thereon as admitted signatures for the purpose of comparison. In the absence of production of the original document containing the alleged admitted signature, the prayer for securing an expert opinion for comparison of signatures cannot be granted as a matter of course.

7. More importantly, a mere denial of the execution of a document or a dispute regarding the signature appearing thereon does not, by itself, warrant a

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**WP No. 13669 of 2020**

mechanical reference of the document to an expert. The plaintiff has already produced the disputed agreement of sale and has examined five witnesses in support of the said document, apart from examining the son of the scribe who had drafted the agreement. The evidentiary value of the said material has to be assessed by the Trial Court at the stage of final adjudication. Merely because the defendants have denied the transaction, the plaintiff cannot, as a matter of right, seek a scientific examination of the disputed signature.

8. It is equally well settled that where a party alleges fraud, forgery or fabrication, the burden of establishing such allegation rests upon the party who asserts it. In the present case, the pleadings disclose a denial of the very transaction and execution of the agreement of sale. There is no justification for permitting the plaintiff, at this belated stage, to seek comparison of the signatures in the absence of the original document containing the alleged

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**NC: 2026:KHC:52790  
WP No. 13669 of 2020**

admitted signature, particularly when the parties have already concluded their evidence.

9. This Court also cannot lose sight of the fact that the learned Trial Judge has recorded the evidence of both parties and, upon consideration of the material already brought on record, has formed an opinion that the evidence is sufficient for deciding the *lis*. The suit, which is of the year 2009, is presently set down for arguments. At this advanced stage of the proceedings, the application filed by the plaintiff seeking expert opinion is clearly belated. The record further discloses that the suit proceedings have remained stalled on account of the interim order granted by this Court for nearly six years.

10. In the circumstances, this Court finds no illegality or perversity in the order passed by the learned Trial Judge warranting interference in exercise of the jurisdiction under Articles 226 and 227 of the Constitution

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of India. The petitioner has failed to make out any ground for interference.

Accordingly, the writ petition stands ***dismissed.***

The learned Trial Judge is directed to proceed with the suit expeditiously and bring the proceedings to their logical conclusion at the earliest. Both parties shall be afforded an opportunity to address their arguments afresh, if so requested, and the Trial Court shall thereafter proceed to dispose of the suit in accordance with law.

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**(SACHIN SHANKAR MAGADUM)**  
**JUDGE**